

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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LEMUEL LAWSON,	:	CIVIL ACTION
Plaintiff,	:	
	:	
v.	:	NO. 99-276
	:	
EMMA LATIMORE, CITY OF	:	
PHILADELPHIA and PHILADELPHIA	:	
DISTRICT ATTORNEY'S OFFICE, et al.,	:	
Defendants.	:	
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MEMORANDUM

R.F. KELLY, J.

JANUARY 25, 1999

On January 19, 1999, Lemuel Lawson, a pro se litigant, filed a request for leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915(a)(1). Since it appears that he is unable to pay the cost of commencing this action, his request to proceed in forma pauperis is granted. After reviewing Plaintiff's Complaint, however, I find that this action is frivolous under 28 U.S.C. § 1915(e)(2)(B)(i).¹

On the case designation form, Plaintiff marked the space next to "Civil Rights" to identify the type of case. However, the Complaint is extremely difficult to decipher and fails to contain a "short and plain statement of the claim showing that the pleader is entitled to relief." FED. R. CIV. P.

¹ 28 U.S.C. § 1915(e)(2)(B)(i) provides, "Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that the action or appeal is frivolous or malicious." 28 U.S.C. § 1915(e)(2)(B)(i) (West Supp. 1998).

8(a). Separate claims are not stated in separate counts and it is unclear what factual foundation, if any, exists for the various claims asserted.

In Nietzke v. Williams, 490 U.S. 319 (1989), the Supreme Court in construing the meaning of "frivolous" under 28 U.S.C. § 1915(d) held that "a complaint, containing as it does both factual allegations and legal conclusions, is frivolous where it lacks an arguable basis either in law or in fact." Id. at 325. In addition, a court reviewing an in forma pauperis complaint is not bound, as it usually is when making a determination based solely on the pleadings, to accept without question the truth of the plaintiff's allegations. Denton v. Hernandez, 504 U.S. 25 (1992). However, when initially assessing a complaint, the factual allegations must be weighed in favor of the plaintiff. Id. at 32 (citing Coppedge v. United States, 369 U.S. 438, 447 (1962)).

Plaintiff, as a pro se litigant, is entitled to some latitude. Bieros v. Nicola, 839 F.Supp. 332, 334 (E.D.Pa. 1993). The complaint as written, however, states no facts to support claims that conceivably would constitute a specific violation of plaintiff's constitutional rights. See Braverman v. Lachman, 1991 WL 61122, *1-2 (E.D. Pa. Apr. 16, 1991)(complaint without factual allegations dismissed as frivolous). Accordingly, the complaint must be dismissed as frivolous. 28 U.S.C. § 1915

(e)(2)(B)(i) (West Supp. 1998).

Therefore, I shall enter the following Order:

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Plaintiff,	:	CIVIL ACTION
	:	
v.	:	NO. 99-276
	:	
EMMA LATIMORE, CITY OF	:	
PHILADELPHIA and PHILADELPHIA	:	
DISTRICT ATTORNEY'S OFFICE, et al.,	:	
Defendants.	:	
	:	

ORDER

AND NOW, this 25th day of January, 1999, since it appears plaintiff is unable to prepay the costs of commencing this suit pursuant to 28 U.S.C. § 1915(a)(1), it is

ORDERED that:

1. leave to proceed in forma pauperis is GRANTED;
2. the complaint is DISMISSED as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B)(i); and
3. leave to amend the complaint within twenty (20) days from the date of this Order is GRANTED, provided plaintiff can do so within the constraints of FED. R. CIV. P. 11 and other procedural rules.

BY THE COURT:

Robert F. Kelly,	J.
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